

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:)	Docket HWCA 00/01-4014
)	
)	
Square D Company)	CONSENT ORDER
1060 East Third Street)	
Beaumont, California 92223)	Health and Safety Code
EPA ID No. CAD050746775)	Section 25187
)	
Respondent.)	

The State Department of Toxic Substances Control
(Department) and Square D Company (Respondent) enter into this
Consent Order and agree as follows:

1. Respondent owns a Parcel designated as Parcel 1 at 1060 East Third Street, Beaumont, California (the Site), in which there is one regulated unit, designated as the North Post-Closure Area (NPCA). The NPCA was previously the site of the evaporation ponds (surface impoundments) and an area used for direct land disposal of wastes. The NPCA is located in the north western quarter of Parcel 1. The NPCA was certified as closed with waste in place in May 1988 and the final Post-Closure Permit became effective on April 30, 1998.

2. On August 29 and 30, 2000, the Department conducted a sampling audit consisting of observing portions of the annual groundwater sampling activities and visually inspecting the

condition of monitoring wells. Respondent's operating record, including the annual groundwater monitoring reports, closure report, part B post-closure permit application for the regulated units, and the Hazardous Waste Facility Post-Closure Permit were reviewed prior and subsequent to the field sampling audit.

3. Based on the inspection, the Department alleges the following violations:

3.1 Respondent violated Hazard Waste Facility Post-Closure Permit, section 3.7(1) and California Code of Regulations, title 22 (Cal. Code Regs., tit. 22), section 66264.97(b)(1)(D), in that in 1997, 1998, 1999, and 2000, Respondent failed to install sufficient number of monitoring points at appropriate locations and depths for evaluating the extent of contamination and rate of migration, to wit: Respondent failed to properly evaluate the contaminant plume migration rate and extent beyond the point of compliance well SDB-1.

3.2 Respondent violated Hazard Waste Facility Post-Closure Permit, sections 3.7(1) and (2), Cal. Code Regs., tit. 22, § 66264.97(e)(5), and Water Quality Sampling and Analysis Plan (WQSAP), Paragraph 1, section 6.2.3.1, in that on or about August 29, 2000, Respondent failed to use an appropriate sampling method (i.e., properly purge monitoring wells), to wit: Respondent used a large diameter development-bailer to purge

monitoring wells which produced turbid groundwater samples.

4. A dispute exists regarding the alleged violations.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code (Health & Saf. Code) section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

9. By entering into this Consent Order, the Respondent does not admit any of the violations alleged above.

SCHEDULE FOR COMPLIANCE

10. Respondent shall comply with the following:

10.1.1. Within ninety (90) calendar days of the effective date of this Consent Order, the Respondent shall submit an application for permit modification to make appropriate changes to the groundwater monitoring program. The revisions to the approved WQSAP and Post-Closure Permit shall be submitted for the Department's review and approval through the permit

modification procedures set forth in accordance with Cal. Code Regs., tit. 22, §§ 66264.100(j) and 66270.42. The permit modification will include the installation of one additional groundwater monitoring well to determine downgradient groundwater conditions north of point of compliance well SDB-1. The well should be installed approximately 170 feet due north of well SDB-1. The well should be constructed similarly to groundwater monitoring well SDB-6B and installed in accordance with the well installation procedures contained in SNR Company's September 8, 1992 document titled: "Additional Aquifer Characterization Plan" (previously approved by the Department) or other Department-approved method. The well should be included in the annual groundwater monitoring program and be monitored/treated in the same way as well SDB-6B. The addition of this new well will require modification of the existing WQSAP and Post-Closure Permit.

10.1.2. Within ninety (90) calendar days of the effective date of this Consent Order, the Respondent shall submit an application for permit modification to make appropriate changes to the WQSAP. The revisions to the approved WQSAP shall be submitted for the Department's review and approval through the permit modification procedures set forth in accordance with Cal. Code Regs., tit. 22, §§ 66264.100(j) and 66270.42. The permit

modification will include revising the to WQSAP reflect the change in the groundwater well purging technique from a purge bailer to a bladder pump.

10.2. Submittals: All submittals from Respondent pursuant to this Consent Order shall be sent to:

Carmelita E. Lampino, Unit Chief
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630

10.3. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

10.4. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Consent Order fails to comply with the Order or fails to protect public health

or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

10.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

10.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Consent Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Consent Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

10.7. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to

take further actions as are necessary to protect public health or welfare or the environment.

10.8. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order.

10.9. Sampling, Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Consent Order. Respondent shall allow the

Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Consent Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Consent Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Consent Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Consent Order.

10.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 12.3, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

10.11. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are

submitted by Respondent pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

10.12. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

10.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

11. Respondent shall pay the Department a total of \$5,000.00 as reimbursement of the Department's administrative costs. The payment shall be made in two equal monthly installments of \$2,500.00 per month, with the first payment due within thirty (30) calendar days of the effective date of this Consent Order, and the last payment due within sixty (60) calendar days after the effective date of this Consent Order. Respondent's check shall be made payable to the Department of Toxic Substances Control, and shall identify the Respondent and Docket Number as shown in the heading of this Consent Order.

Respondent shall deliver the payment together with the attached
Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Carmelita E. Lampino, Unit Chief
Statewide Compliance Division
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630

If Respondent fails to make payment as provided
above, Respondent agrees to pay interest at the rate established
pursuant to Health & Saf. Code § 25360.1 and to pay all costs
incurred by the Department in pursuing collection including
attorney's fees.

OTHER PROVISIONS

12.1. Additional Enforcement Actions: By agreeing to
this Consent Order, the Department does not waive the right to
take further enforcement actions, except to the extent provided
in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply
with the terms of this Consent Order may subject Respondent to
civil penalties and/or punitive damages for any costs incurred by
the Department or other government agencies as a result of such

failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

12.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

12.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

12.6. Compliance with Waste Discharge Requirements: Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or California Regional Water Quality Control Board.

Dated: 5/23/02

Original signed by: Richard Widdowson

Signature of Respondent's Representative

Richard Widdowson, Director

Safety & Environmental Affairs

Typed or Printed Name and Title
of Respondent's Representative

Dated: 6/05/2002

Original signed by: Nennet V. Alvarez

Nennet V. Alvarez, Branch Chief

Department of Toxic Substances Control